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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,009	03/16/2001	Jean-Marc Ascione	05725.0634-00	5103

7590 01/24/2002

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[REDACTED] EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
1751	S

DATE MAILED: 01/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/809,009	ASCIONE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Eisa B Elhilo	1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 March 2001.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-65 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

Claims 1-65 are pending in this application.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Mettrie et al. (US' 5,989,295) in view of de la Mettrie et al. (5,976,195).

de la Mettrie (US' 295) teaches an aqueous hair dyeing composition comprising anionic amphiphilic polymers containing at least one hydrophilic unit of unsaturated olefinic carboxylic acid and at least one hydrophobic unit which is a C10-C30 alkyl ester of unsaturated carboxylic acid selected from those hydrophilic unit of unsaturated olefinic carboxylic acid corresponds to the monomer of the formula (I) in which R1 denotes H, CH<sub>3</sub> or C<sub>2</sub>H<sub>5</sub> that is to say acrylic acid, methacrylic acid or ethacrylic acid units and in which the hydrophobic unit of C10-C30 alkyl ester of unsaturated carboxylic acid corresponds to the formula (II) in which R1 denotes H, CH<sub>3</sub> or C<sub>2</sub>H<sub>5</sub> that is to say acrylate, methacrylate or ethacrylate units and R2 denotes a C10-C30 alkyl radical C10-C30 alkyl ester of unsaturated carboxylic acids such as lauryl acrylate, stearyl acrylate, decyl acrylate lauryl methacrylate or stearyl methacrylate (see col. 3, lines 50-67, formula I and col. 4, lines 1-20 and formula II), oxidizing agents such as hydrogen peroxide solution in the amount of 2.5 to 40 volumes (see col. 9, lines 52-55). The anionic polymer in the amount range from 0.05 to 10% by weight relative to the total weight of the dye composition

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(see col. 5, line 5), other agents such as anionic, nonionic or amphoteric surfactants (see col. 9, lines 30-31). De la Mettrie also teaches a method for dyeing hair which comprises the steps of applying to hair a mixture of oxidation dye composition and oxidizing composition and leaving the mixture to act for an exposure time preferably from 1 to 60 minutes, in rinsing the fibers and then washing with shampoo, then rinsing then again and dyeing then (see col. 10, lines 15-24). de la Mettrie further, teaches a multi-compartment kit for treatment of keratinous fibers (see col. 3, lines 16-43).

The instant claims differ from the reference by reciting dyeing ingredients such as anionic associative polymer, which is crosslinked with allyl ether.

de la Mettrie (US' 195) teaches in analogous art a hair dyeing composition comprising anionic amphiphilic polymers containing at least one hydrophilic unit and at least one allyl ether unit containing a fatty chain which are selected from those in which the hydrophilic unit contains an ethylenic unsaturated anionic monomer, more particularly a vinyl carboxylic and most particularly an acrylic acid, a methacrylic acid or mixtures thereof, and whose allyl ether unit containing corresponds to the monomer of the formula (I) in which R denotes a hydrocarbon radical selected from alkyl, aryalkyl and cycloalkyl radicals which contain from 8 to 30 carbon atoms (see col. 3, lines 22-64), other crosslinked terpolymers of methacrylic acid of ethyl acrylate of polyethylene glycol (10E0) ether of stearyl alcohol (see col. 3, lines 57-59).

Therefore, in view of the teaching of the secondary reference, one having ordinary skill in the art would have been motivated to modify the primary reference by using anionic associative polymer, which is crosslinked with allyl ether to make such a composition. Such modification would be obvious because one would expect that the use of such polymer as taught by de la

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Mettire (US' 195) would be similarly useful and applicable to the analogous composition taught by de la Mettire (US' 295).

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 746-7171 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700



Eisa  
January 17, 2002